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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,091	12/21/2001	Stephen R. Forrest	10644/11902	8289
26546 7590 01/26/2004 KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			EXAMINER YAMNITZKY, MARIE ROSE	
			ART UNIT 1774	PAPER NUMBER
DATE MAILED 01/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/026,091

Applicant(s)

FORREST ET AL.

Examiner

Marie R. Yamnitzky

Art Unit

1774

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 708.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1 ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2 ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

- 3 ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
- 4 ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5 ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
- 6 ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7 ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NoneClaim(s) objected to: NoneClaim(s) rejected: 75-109Claim(s) withdrawn from consideration: None

- 8 ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
- 9 ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 10 ☒ Other: See Continuation Sheet

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejections under 35 U.S.C. 112, first and second paragraphs. With respect to the issue raised re: "low" as recited in claim 103, the examiner withdraws the rejection in consideration of applicants' arguments filed 22 Dec 2003.

Continuation of 5. does NOT place the application in condition for allowance because: the terminal disclaimers referenced on page 8 of applicants' reply have not been received. Accordingly, the claims remain subject to obviousness-type double patenting rejections.

Continuation of 10. Other:

The examiner notes that the correct status identifier for claim 82 in applicants' reply is "currently amended".

Regarding the terminal disclaimers (TDs), based on a phone call from applicants' representative on 14 Jan 2004, the TDs were going to be submitted to the Office on 14 Jan 2004. The obviousness-type double patenting rejections will be reconsidered upon receipt and review of the TDs.



MARIE YAMNITZKY  
PRIMARY EXAMINER

1774